

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7813 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

KAMLESH A VYAS

Versus

STATE OF GUJARAT

Appearance:

MR AM RAVAL for Petitioner

MR VB GHARANIA instructed by MR SP HASURKAR
for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/08/1999

ORAL JUDGEMENT

#. Rule. Mr.Gharania waives service of Rule on behalf of respondents.

#. For both the grievances made by petitioner in this Special Civil Application, this approach at this stage is difficult to appreciate, for the reasons that in case the

petitioner has any danger to his life at the place where his head quarter is fixed during suspension, proper course available to him for change of the same is to file application to the Secretary of the Department concerned and if such application is filed, the Secretary concerned shall decide the same expeditiously within a period of two months from the date of receipt of writ of this order.

#. So far as second grievance is concerned, I find that in case where the petitioner is in gainful employment, then before denying him the subsistence allowance, basic principles of natural justice have to be followed. It could have been done only after giving notice to the petitioner and further giving him opportunity to submit his defence. Only after undergoing these formalities, if the disciplinary authority is satisfied that he is elsewhere engaged in gainful employment, then only denial of subsistence allowance can be justified, but not otherwise. This has not been done in the present case.

#. This Special Civil Application is dismissed. However, the respondents are directed to give notice to the petitioner calling upon him to show cause as to why he should not be paid subsistence allowance and only thereafter, appropriate order may be passed. Rule discharged. No order as to costs.

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[sunil]